

105TH CONGRESS  
1ST SESSION

# S. 311

To amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1997

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medicare Preventive Benefit Improvement Act of 1997”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Screening mammography.
- Sec. 3. Screening pap smear and pelvic exams.
- Sec. 4. Coverage of colorectal screening.
- Sec. 5. Prostate cancer screening tests.
- Sec. 6. Diabetes screening benefits.
- Sec. 7. Effective date.

1 **SEC. 2. SCREENING MAMMOGRAPHY.**

2 (a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY  
3 FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) of  
4 the Social Security Act (42 U.S.C. 1395m(c)(2)(A)) is  
5 amended—

6 (1) in clause (iv), by striking “but under 65  
7 years of age,” and

8 (2) by striking clause (v).

9 (b) WAIVER OF DEDUCTIBLE.—The first sentence of  
10 section 1833(b) of the Social Security Act (42 U.S.C.  
11 1395l(b)) is amended—

12 (1) by striking “and” before “(4)”, and

13 (2) by inserting before the period at the end the  
14 following: “, and (5) such deductible shall not apply  
15 with respect to screening mammography (as de-  
16 scribed in section 1861(jj))”.

17 (c) CONFORMING AMENDMENT.—Section  
18 1834(c)(1)(C) of the Social Security Act (42 U.S.C.  
19 1395m(c)(1)(C)) is amended by striking “, subject to the  
20 deductible established under section 1833(b),”.

21 **SEC. 3. SCREENING PAP SMEAR AND PELVIC EXAMS.**

22 (a) COVERAGE OF PELVIC EXAM; INCREASING FRE-  
23 QUENCY OF COVERAGE OF PAP SMEAR.—Section  
24 1861(nm) of the Social Security Act (42 U.S.C.  
25 1395x(nm)) is amended—

1           (1) in the heading, by striking “Smear” and in-  
2           serting “Smear; Screening Pelvic Exam”;

3           (2) by striking “(m)” and inserting “(m)(1)”;

4           (3) by striking “3 years” and all that follows  
5           and inserting “3 years, or during the preceding year  
6           in the case of a woman described in paragraph (3).”;  
7           and

8           (4) by adding at the end the following:

9           “(2) The term ‘screening pelvic exam’ means a pelvic  
10          examination provided to a woman if the woman involved  
11          has not had such an examination during the preceding 3  
12          years, or during the preceding year in the case of a woman  
13          described in paragraph (3), and includes a clinical breast  
14          examination.

15          “(3) A woman described in this paragraph is a  
16          woman who—

17               “(A) is of childbearing age and has not had a  
18               test described in this subsection during each of the  
19               preceding 3 years that did not indicate the presence  
20               of cervical cancer; or

21               “(B) is at high risk of developing cervical can-  
22               cer (as determined pursuant to factors identified by  
23               the Secretary).”.

1 (b) WAIVER OF DEDUCTIBLE.—The first sentence of  
 2 section 1833(b) of the Social Security Act (42 U.S.C.  
 3 1395l(b)), as amended by section 2(b), is amended—

4 (1) by striking “and” before “(5)”, and

5 (2) by inserting before the period at the end the  
 6 following: “, and (6) such deductible shall not apply  
 7 with respect to screening pap smear and screening  
 8 pelvic exam (as described in section 1861(nn))”.

9 (c) CONFORMING AMENDMENTS.—Sections  
 10 1861(s)(14) and 1862(a)(1)(F) of the Social Security Act  
 11 (42 U.S.C. 1395x(s)(14), 1395y(a)(1)(F)) are each  
 12 amended by inserting “and screening pelvic exam” after  
 13 “screening pap smear”.

14 **SEC. 4. COVERAGE OF COLORECTAL SCREENING.**

15 (a) COVERAGE.—

16 (1) IN GENERAL.—Section 1861 of the Social  
 17 Security Act (42 U.S.C. 1395x) is amended—

18 (A) in subsection (s)(2)—

19 (i) by striking “and” at the end of  
 20 subparagraphs (N) and (O), and

21 (ii) by inserting after subparagraph  
 22 (O) the following:

23 “(P) colorectal cancer screening tests (as de-  
 24 fined in subsection (oo)); and”; and

25 (B) by adding at the end the following:

1           “Colorectal Cancer Screening Tests

2           “(oo)(1) The term ‘colorectal cancer screening test’  
3 means, unless determined otherwise pursuant to section  
4 4(a)(2) of Medicare Preventive Benefit Improvement Act  
5 of 1997, any of the following procedures furnished to an  
6 individual for the purpose of early detection of colorectal  
7 cancer:

8           “(A) Screening fecal-occult blood test.

9           “(B) Screening flexible sigmoidoscopy.

10          “(C) Screening barium enema.

11          “(D) In the case of an individual at high risk  
12 for colorectal cancer, screening colonoscopy or  
13 screening barium enema.

14          “(E) For years beginning after 2002, such  
15 other procedures as the Secretary finds appropriate  
16 for the purpose of early detection of colorectal can-  
17 cer, taking into account changes in technology and  
18 standards of medical practice, availability, effective-  
19 ness, costs, the particular screening needs of racial  
20 and ethnic minorities in the United States and such  
21 other factors as the Secretary considers appropriate.



1       “(2) In paragraph (1)(D), an ‘individual at high risk  
 2 for colorectal cancer’ is an individual who, because of fam-  
 3 ily history, prior experience of cancer or precursor neo-  
 4 plastic polyps, a history of chronic digestive disease condi-  
 5 tion (including inflammatory bowel disease, Crohn’s Dis-  
 6 ease, or ulcerative colitis), the presence of any appropriate  
 7 recognized gene markers for colorectal cancer, or other  
 8 predisposing factors, faces a high risk for colorectal can-  
 9 cer.”.

10               (2) REVIEW OF COVERAGE OF COLORECTAL  
 11       CANCER SCREENING TESTS.—

12               (A) IN GENERAL.—Not later than 2 years  
 13 after the date of enactment of this Act (and pe-  
 14 riodically thereafter), the Secretary of Health  
 15 and Human Services (in this paragraph re-  
 16 ferred to as the “Secretary”) shall review—

17               (i) the standards of medical practice  
 18 with regard to colorectal cancer screening  
 19 tests (as defined in section 1861(o) of the  
 20 Social Security Act (42 U.S.C. 1395x(o)))  
 21 (as added by paragraph (1) of this sec-  
 22 tion);

23               (ii) the availability, effectiveness,  
 24 costs, and cost-effectiveness of colorectal  
 25 cancer screening tests covered under title

XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) at the time of such review;

(iii) the particular screening needs of racial and ethnic minorities in the United States; and

(iv) such other factors as the Secretary considers appropriate with regard to the coverage of colorectal cancer screening tests under the Medicare program.

(B) DETERMINATION.—If the Secretary determines it appropriate based on the review conducted pursuant to subparagraph (A), the Secretary shall issue and publish a determination that one or more colorectal cancer screening tests described in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)) (as added by paragraph (1) of this section) shall no longer be covered under that section.

(b) FREQUENCY AND PAYMENT LIMITS.—

(1) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following:

“(d) FREQUENCY AND PAYMENT LIMITS FOR  
COLORECTAL CANCER SCREENING TESTS.—

1           “(1)   SCREENING   FECAL-OCCULT   BLOOD  
2   TESTS.—

3           “(A) PAYMENT LIMIT.—In establishing fee  
4   schedules under section 1833(h) with respect to  
5   colorectal cancer screening tests consisting of  
6   screening fecal-occult blood tests, except as pro-  
7   vided by the Secretary under paragraph (5)(A),  
8   the payment amount established for tests per-  
9   formed—

10           “(i) in 1998 shall not exceed \$5; and

11           “(ii) in a subsequent year, shall not  
12   exceed the limit on the payment amount  
13   established under this subsection for such  
14   tests for the preceding year, adjusted by  
15   the applicable adjustment under section  
16   1833(h) for tests performed in such year.

17           “(B) FREQUENCY LIMIT.—Subject to revi-  
18   sion by the Secretary under paragraph (5)(B),  
19   no payment may be made under this part for  
20   colorectal cancer screening test consisting of a  
21   screening fecal-occult blood test—

22           “(i) if the individual is under 50 years  
23   of age; or



1                   “(ii) if the test is performed within  
2                   the 11 months after a previous screening  
3                   fecal-occult blood test.

4                   “(2) SCREENING FOR INDIVIDUALS NOT AT  
5                   HIGH RISK.—Subject to revision by the Secretary  
6                   under paragraph (5)(B), no payment may be made  
7                   under this part for a colorectal cancer screening test  
8                   consisting of a screening flexible sigmoidoscopy or  
9                   screening barium enema—

10                   “(i) if the individual is under 50 years  
11                   of age; or

12                   “(ii) if the procedure is performed  
13                   within the 47 months after a previous  
14                   screening flexible sigmoidoscopy or screen-  
15                   ing barium enema.

16                   “(3) SCREENING FOR INDIVIDUALS AT HIGH  
17                   RISK FOR COLORECTAL CANCER.—Subject to revi-  
18                   sion by the Secretary under paragraph (5)(B), no  
19                   payment may be made under this part for a  
20                   colorectal cancer screening test consisting of a  
21                   screening colonoscopy or screening barium enema for  
22                   individuals at high risk for colorectal cancer if the  
23                   procedure is performed within the 23 months after  
24                   a previous screening colonoscopy or screening bar-  
25                   ium enema.

1           “(4) PAYMENT AMOUNTS FOR CERTAIN  
2       COLORECTAL CANCER SCREENING TESTS.—The Sec-  
3       retary shall establish payment amounts under sec-  
4       tion 1848 with respect each colorectal cancer screen-  
5       ing tests described in subparagraphs (B), (C), and  
6       (D) of section 1861(o)(1) that are consistent with  
7       payment amounts under such section for similar or  
8       related services, except that such payment amount  
9       shall be established without regard to section  
10      1848(a)(2)(A).

11           “(5) REDUCTIONS IN PAYMENT LIMIT AND RE-  
12      VISION OF FREQUENCY.—

13           “(A) REDUCTIONS IN PAYMENT LIMIT FOR  
14      SCREENING FECAL-OCCULT BLOOD TESTS.—  
15      The Secretary shall review from time to time  
16      the appropriateness of the amount of the pay-  
17      ment limit established for screening fecal-occult  
18      blood tests under paragraph (1)(A). The Sec-  
19      retary may, with respect to tests performed in  
20      a year after 2000, reduce the amount of such  
21      limit as it applies nationally or in any area to  
22      the amount that the Secretary estimates is re-  
23      quired to assure that such tests of an appro-  
24      priate quality are readily and conveniently  
25      available during the year.

1                   “(B) REVISION OF FREQUENCY.—

2                   “(i) REVIEW.—The Secretary shall re-  
3 view periodically the appropriate frequency  
4 for performing colorectal cancer screening  
5 tests based on age and such other factors  
6 as the Secretary believes to be pertinent.

7                   “(ii) REVISION OF FREQUENCY.—The  
8 Secretary, taking into consideration the re-  
9 view made under clause (i), may revise  
10 from time to time the frequency with  
11 which such tests may be paid for under  
12 this subsection, but no such revision shall  
13 apply to tests performed before January 1,  
14 2001.

15                   “(6) LIMITING CHARGES OF NONPARTICIPATING  
16 PHYSICIANS.—

17                   “(A) IN GENERAL.—In the case of a  
18 colorectal cancer screening test consisting of a  
19 screening flexible sigmoidoscopy or screening  
20 barium enema, or a screening colonoscopy or  
21 screening barium enema provided to an individ-  
22 ual at high risk for colorectal cancer for which  
23 payment may be made under this part, if a  
24 nonparticipating physician provides the proce-  
25 dure to an individual enrolled under this part,

1 the physician may not charge the individual  
2 more than the limiting charge (as defined in  
3 section 1848(g)(2)).

4 “(B) ENFORCEMENT.—If a physician or  
5 supplier knowingly and willfully imposes a  
6 charge in violation of subparagraph (A), the  
7 Secretary may apply sanctions against such  
8 physician or supplier in accordance with section  
9 1842(j)(2).”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Paragraphs (1)(D) and (2)(D) of section  
12 1833(a) of the Social Security Act (42 U.S.C.  
13 1395l(a)) are each amended by inserting “or section  
14 1834(d)(1)” after “subsection (h)(1)”.

15 (2) Section 1833(h)(1)(A) of the Social Secu-  
16 rity Act (42 U.S.C. 1395l(h)(1)(A)) is amended by  
17 striking “The Secretary” and inserting “Subject to  
18 paragraphs (1) and (5)(A) of section 1834(d), the  
19 Secretary”.

20 (3) Clauses (i) and (ii) of section 1848(a)(2)(A)  
21 of the Social Security Act (42 U.S.C. 1395w-  
22 4(a)(2)(A)) are each amended by inserting after “a  
23 service” the following: “(other than a colorectal can-  
24 cer screening test consisting of a screening  
25 colonoscopy or screening barium enema provided to

an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy or screening barium enema”).

(4) Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking “and” at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting “, and”, and

(iii) by adding at the end the following:

“(G) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);”; and

(B) in paragraph (7), by striking “paragraph (1)(B) or under paragraph (1)(F)” and inserting “subparagraph (B), (F), or (G) of paragraph (1)”.

## **SEC. 5. PROSTATE CANCER SCREENING TESTS.**

(a) **COVERAGE.**—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 4(a), is amended—

(1) in subsection (s)(2)—



1 (A) by striking “and” at the end of sub-  
2 paragraph (P);

3 (B) by adding “and” at the end of sub-  
4 paragraph (Q); and

5 (C) by adding at the end the following:

6 “(R) prostate cancer screening tests (as defined  
7 in subsection (pp)); and”; and

8 (2) by adding at the end the following:

9 “Prostate Cancer Screening Tests

10 “(pp)(1) The term ‘prostate cancer screening test’  
11 means a test that consists of any (or all) of the procedures  
12 described in paragraph (2) provided for the purpose of  
13 early detection of prostate cancer to a man over 50 years  
14 of age who has not had such a test during the preceding  
15 year.

16 “(2) The procedures described in this paragraph are  
17 as follows:

18 “(A) A digital rectal examination.

19 “(B) A prostate-specific antigen blood test.

20 “(C) For years beginning after 2001, such  
21 other procedures as the Secretary finds appropriate  
22 for the purpose of early detection of prostate cancer,  
23 taking into account changes in technology and

standards of medical practice, availability, effectiveness, costs, and such other factors as the Secretary considers appropriate.”.

(b) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) of the Social Security Act (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after “laboratory tests” the following: “(including prostate cancer screening tests under section 1861(pp) consisting of prostate-specific antigen blood tests)”.

(c) CONFORMING AMENDMENT.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)), as amended by section 4(c)(4), is amended—

(1) in paragraph (1)—

(A) in subparagraph (F), by striking “and” at the end,

(B) in subparagraph (G), by striking the semicolon at the end and inserting “, and”, and

(C) by adding at the end the following:

“(H) in the case of prostate cancer screening tests (as defined in section 1861(oo)), which are performed more frequently than is covered under such section;”; and

1           (2) in paragraph (7), by striking “or (G)” and  
2       inserting “(G), or (H)”.

3   **SEC. 6. DIABETES SCREENING BENEFITS.**

4       (a) COVERAGE OF DIABETES OUTPATIENT SELF-  
5   MANAGEMENT TRAINING SERVICES.—

6           (1) IN GENERAL.—Section 1861 of the Social  
7       Security Act (42 U.S.C. 1395x), as amended by sec-  
8       tions 4(a) and 5(a), is amended—

9           (A) in subsection (s)(2)—

10               (i) by striking “and” at the end of  
11               subparagraph (Q);

12               (ii) by adding “and” at the end of  
13               subparagraph (R); and

14               (iii) by adding at the end the follow-  
15               ing:

16               “(S) diabetes outpatient self-management train-  
17       ing services (as defined in subsection (qq)); and”;  
18       and

19           (B) by adding at the end the following:

20   “Diabetes Outpatient Self-Management Training Services

21       “(qq)(1) The term ‘diabetes outpatient self-manage-  
22   ment training services’ means educational and training  
23   services furnished to an individual with diabetes by or  
24   under arrangements with a certified provider (as described

1 in paragraph (2)(A)) in an outpatient setting by an indi-  
2 vidual or entity who meets the quality standards described  
3 in paragraph (2)(B), but only if the physician who is man-  
4 aging the individual's diabetic condition certifies that such  
5 services are needed under a comprehensive plan of care  
6 related to the individual's diabetic condition to provide the  
7 individual with necessary skills and knowledge (including  
8 skills related to the self-administration of injectable drugs)  
9 to participate in the management of the individual's condi-  
10 tion.

11 “(2) In paragraph (1)—

12 “(A) a ‘certified provider’ is an individual or  
13 entity that, in addition to providing diabetes out-  
14 patient self-management training services, provides  
15 other items or services for which payment may be  
16 made under this title; and

17 “(B) an individual or entity meets the quality  
18 standards described in this paragraph if the individ-  
19 ual or entity meets quality standards established by  
20 the Secretary, except that the individual or entity  
21 shall be deemed to have met such standards if the  
22 individual or entity meets applicable standards origi-  
23 nally established by the National Diabetes Advisory  
24 Board and subsequently revised by organizations  
25 who participated in the establishment of standards

1 by such Board, or is recognized by the American Di-  
2 abetes Association as meeting standards for furnish-  
3 ing the services.”.

4 (2) CONSULTATION WITH ORGANIZATIONS IN  
5 ESTABLISHING PAYMENT AMOUNTS FOR SERVICES  
6 PROVIDED BY PHYSICIANS.—In establishing payment  
7 amounts under section 1848(a) of the Social Secu-  
8 rity Act (42 U.S.C. 1395w-4(a)) for physicians’  
9 services consisting of diabetes outpatient self-man-  
10 agement training services, the Secretary of Health  
11 and Human Services shall consult with appropriate  
12 organizations, including the American Diabetes As-  
13 sociation, in determining the relative value for such  
14 services under section 1848(c)(2) of such Act.

15 (b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH  
16 DIABETES.—

17 (1) INCLUDING STRIPS AS DURABLE MEDICAL  
18 EQUIPMENT.—The first sentence of section 1861(n)  
19 of the Social Security Act (42 U.S.C. 1395x(n)) is  
20 amended by inserting before the semicolon the fol-  
21 lowing: “, and includes blood-testing strips for indi-  
22 viduals with diabetes without regard to whether the  
23 individual has Type I or Type II diabetes or to the  
24 individual’s use of insulin (as determined under



standards established by the Secretary in consultation with the American Diabetes Association”).

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking “or” at the end of clause

(ii);

(B) by adding “or” at the end of clause

(iii); and

(C) by inserting after clause (iii) the following:

“(iv) which is a blood-testing strip for an individual with diabetes,”.

(c) ESTABLISHMENT OF OUTCOME MEASURES FOR BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations (including the American Diabetes Association), shall establish outcome measures, including glycosylated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of Medicare beneficiaries with diabetes mellitus.



1           (2) RECOMMENDATIONS FOR MODIFICATIONS  
2           TO SCREENING BENEFITS.—Taking into account in-  
3           formation on the health status of Medicare bene-  
4           ficiaries with diabetes mellitus as measured under  
5           the outcome measures established under subpara-  
6           graph (A), the Secretary shall from time to time  
7           submit recommendations to Congress regarding  
8           modifications to the coverage of services for such  
9           beneficiaries under the Medicare program.

10 **SEC. 7. EFFECTIVE DATE.**

11           The amendments made by this Act shall apply to  
12           items and services furnished on or after January 1, 1998.

○